



Parenting in the Context of Domestic Violence

Judicial Council of California, Administrative Office of the Courts

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Pointers for Practice for Judicial Officers and Court Staff

The following statements highlight points from the report¹ entitled “Parenting in the Context of Domestic Violence” that require heightened awareness by judicial officers, custody evaluators, staff of supervised visitation centers, and mediators. Please see the full report for a more in-depth discussion of these topics.

Parenting by Perpetrators of Domestic Violence

- The parenting of batterers compared to that of nonviolent fathers is more controlling and authoritarian, is often less consistent, and is more often intended to manipulate the children and undermine the mothers’ parenting. Batterers are often able to perform parenting tasks well when being observed in custody evaluations or supervised visitation settings, but then may change their behavior once observation by outsiders has ended. Careful interviewing of adult and child victims and collateral contacts as well as reviews of police, criminal, and child protection records is needed to assess a perpetrator’s risk to children.
- Adequately assessing a perpetrator’s risk to children includes, according to Bancroft and Silverman (2002)², attention to the following factors:
 1. Perpetrator’s history of physical or sexual abuse and neglect of his or her children;
 2. Level of continued danger to the non-abusing parent;
 3. History of abuse of the children and other parent;
 4. History of using children in or exposing them to violent events;
 5. Level of coercive control that the perpetrator has exercised in the past;
 6. Degree to which the perpetrator feels entitled to access to the children and to other family privileges;
 7. History of substance abuse and mental illness;
 8. Willingness to accept the decisions of the victim and of social institutions such as law enforcement and the courts; and
 9. Risk of child abduction.

¹ Edleson, Jeffrey L., Mbilinyi, Lyungai F., Shetty, Sudha . (2003). *Parenting in the Context of Domestic Violence*. San Francisco: Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts. Available at <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications>.

² Bancroft, L., and Silverman, J. (2002). *The batterer as parent*. Thousand Oaks, CA: Sage.

- The California Family Code appears to require a careful assessment of parenting by perpetrators; section 3044 states that “there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child.” The code outlines six factors to consider in assessing whether a perpetrator of domestic violence has overcome this presumption:
 1. Whether the perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child;
 2. Whether the perpetrator has satisfactorily completed a batterer’s treatment program that meets the criteria outlined in subsection(c) of section 1203.097 of the Penal Code;
 3. Whether the perpetrator has successfully completed a program of alcohol or drug abuse counseling if the court determines that counseling is appropriate;
 4. Whether the perpetrator has successfully completed a parenting class if the court determines the class to be appropriate;
 5. Whether the perpetrator is on probation or parole, whether he or she is restrained by a protective order granted after a hearing, and whether he or she has complied with its terms and conditions; and
 6. Whether the perpetrator of domestic violence has committed any further acts of domestic violence.

Parenting by Victims of Domestic Violence

- Protective strategies of battered parents are often underestimated or overlooked in custody and visitation recommendations and decisions.
- Although battered mothers show increased levels of stress, it appears that this stress does not always translate into diminished parenting. Van Horn and Lieberman (2002)³ suggest that “Women who live in violent relationships are remarkably similar to comparison women in their beliefs about parenting, their self-reported parenting behaviors, and their observed interactions with their children. On such variables as providing structure, showing warmth, being emotionally available, and positively reinforcing their children, mothers from violent and nonviolent homes reportedly engaged in similar behavior” p.83.
- Studies indicate that battered mothers may be more likely than other mothers to use some types of aggression against their children, but the likelihood of abuse is reduced once the mother is safe.
- Battered mothers often indicate that perpetrators interfere with their parenting and that the mothers often make decisions to stay with or leave the perpetrator based on their sense of the best interest of their children.

³ Van Horn, P., and Lieberman, A. (2002). *Domestic violence and parenting: A review of the literature*. San Francisco: Judicial Council of California, Administrative Office of the Courts, Center for Families, Children & the Courts.

Assessing Risk to Children

- Although little empirical data and few standardized measures exist, guidelines for assessment drawn from extensive practice experience have been published. For example, Groves, Roberts, and Weinreb (2000)⁴ have outlined a basic protocol for eliciting information on four elements:
 1. A detailed review of trauma;
 2. The current symptoms of the child;
 3. A detailed developmental history; and
 4. Reactions of parents or caregivers to the child's experience and symptoms.
- Children may continue to hold positive views of both parents, despite the violence, but also may differentiate between the perpetrator and victim by more often assigning negative qualities to the perpetrator.
- Bancroft and Silverman (2002) draw on their clinical experience and suggest a number of continued risks to children from contact with perpetrators:
 1. Risk of continued undermining of mother's parenting and the mother-child relationship;
 2. Risk of continued exposure to authoritarian or neglectful parenting;
 3. Risk of exposure to new threats or violence, psychological maltreatment, or direct victimization by the batterer;
 4. Risk of learning violence-supportive beliefs and attitudes;
 5. Risk of being abducted or otherwise used as a tool of the perpetrator; and
 6. Risk of exposure to violence in the perpetrator's subsequent relationship(s).
- Given the findings from published literature reviewed in the full report, complete information on the adequacy of victim and especially perpetrator parenting in the context of domestic violence is crucial to effective court decision-making.
- Safety factors must be considered in any comprehensive assessment of these families. Does the abused parent perceive herself and her children to be safe? If so, what factors are critical in creating such safety? If not, what is seen as crucial to developing sufficient safety? Rule 5.215 of the California Rules of Court provides guidance for court staff on components of safety planning. It states in section g(1) that "Safety planning may include but is not limited to discussion of safe housing, workplace safety, safety for other family members and children, access to financial resources, and information about local domestic violence agencies."

⁴ Groves, B. M., Roberts, E., and Weinreb, M. (2000). *Shelter from the storm: Clinical intervention with children affected by domestic violence*. Boston: Boston Medical Center.